

SEP 01 2011

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IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF VIRGINIA  
ROANOKE DIVISION

CHARLES J. SMITH,  
Plaintiff,

v.

W. DAVIS, *et al.*,  
Defendants.

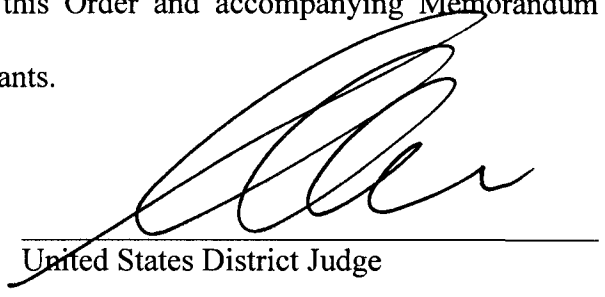
) Civil Action No. 7:10-cv-00263  
)  
)  
) **ORDER**  
)  
)  
) **By: Samuel G. Wilson**  
) **United States District Judge**

In accordance with the accompanying Memorandum Opinion entered this day, it is hereby **ADJUDGED** and **ORDERED** that the defendants' motion for summary judgment is **GRANTED IN PART** and **DENIED IN PART**. The motion is **DENIED** as to (1) Smith's Eighth Amendment excessive force claims against Davis and (2) Smith's assault and battery claims against Davis in his individual capacities. The defendants' motion for summary judgment is **GRANTED** as to all of Smith's other claims. The Clerk is **DIRECTED** to **TERMINATE** defendants McCowan, McCoy, Tate, Large, Ingle, Ray, Garman, and Trapp as defendants to this action. Therefore, the only remaining defendant to this action is Davis.

The Clerk is **DIRECTED** to set this matter for trial in the Big Stone Gap Division before a seven-member jury.

The Clerk is directed to send copies of this Order and accompanying Memorandum Opinion to Smith and counsel of record for defendants.

ENTER: September 1, 2011

  
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United States District Judge